



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 5  
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CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



258737

REPLY TO THE ATTENTION OF

C-14J

**PRIVILEGED - ENFORCEMENT SENSITIVE**

August 30, 2000

Mr. Steven Willey  
U.S. Department of Justice  
Environmental and Natural Resources Division  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044

Re: NL Industries/Taracorp CERCLA Remedial Site

Dear Mr. Willey:

As you know, the EPA, Region 5, Central Regional Laboratory (CRL) provided some laboratory analytical services relating to the NL Industries/Taracorp Site located in and near Granite City, Illinois. In light of a criminal investigation of alleged improper equipment calibration practices by certain individuals at the CRL, we have undertaken a review of available information to determine whether any CRL work relating to the NL Industries/Taracorp Site was performed by any of the four suspect analysts identified as subjects of the criminal investigation.<sup>1</sup> The purpose of this letter is to advise you of our determination that the none of the suspect analysts was involved in the analytical services provided by CRL in connection with the NL Industries/Taracorp Site and to provide you with a summary of the basis for this conclusion. The following describes EPA's information gathering and review process which was used to make a determination in this matter.

**SUPERFUND DATA SET PACKAGES**

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<sup>1</sup> The suspect analysts include two analysts formerly employed by Environmental Services Assistance Team (ESAT) contractors, and two former EPA employees who worked at CRL. The ESAT contracts are administered by the Agency's Superfund program.

The Superfund Division created electronic data bases using information contained in CRL data set packages for Superfund sampling projects archived at the Federal Records Center (FRC) or which remain at the CRL.<sup>2</sup> These data bases are based on indexes kept by the Superfund Records Center of data sets that have been sent to the FRC and information from the Relational Laboratory Information Management System (RLIMS). The lists were meant to provide EPA a comprehensive inventory of Superfund sites and data set packages where CRL or the ESAT contractors did analytical work. These lists have been used to retrieve data set packages for specified Superfund sites for review.<sup>3</sup> The data set packages numbers 0819 and 0917 have been identified in the FRC data base for the NL Industries/Taracorp Site. A discussion of the review of these data set packages is provided below under the Sample Receiving Logs section.

### **SAMPLE RECEIVING LOGS**

EPA created an electronic data base of information extracted from receiving logs in which the CRL manually recorded all samples received by the lab for analysis. The data base includes entries for each sample project entered in these logs with sample receipt dates from October 1977 through September 1994.<sup>4</sup> This data base identifies, among other things, the site or facility from which the samples were collected, an identification number initially referred to as a sample project batch number or later as a data set number, identities of persons who checked samples out and in from the sample custodian, and the date and time the samples were received in the lab.

In October 1994, the CRL began to use a computerized data base known as the RLIMS to maintain sample receipt and tracking information for the CRL. CRL has created an electronic

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<sup>2</sup> Samples received by CRL for analysis are organized into "data sets," which are assigned unique data set numbers for tracking purposes. Similarly, data set numbers are assigned to analytical results received by CRL from outside laboratories for the purpose of conducting data validation reviews.

<sup>3</sup>There is reason to believe that some Superfund data packages from the late 1970's and early 1980's were misplaced by CRL and not sent to FRC. Therefore, the FRC list of Superfund data packages is not as complete as the receiving log data base described below.

<sup>4</sup>The CRL's manual receiving logs and the RLIMS systems may not include samples analyzed under the Field Analytical Support Program (FASP) which is part of the ESAT contract, and is used primarily for on-site screening and Brownfield work. Usually FASP samples are analyzed at a mobile laboratory and not at CRL. Also, they may not have been considered CRL samples, and thus were not logged in the CRL receiving log system if actually taken to the lab for analyses. However, a review of time charges by the two suspect contractor analysts shows that they charged limited time to FASP work at only a few sites, and no time was charged for such work at this site.

file of information from RLIMS which is analogous to the information in the manual receiving logs. It covers the time period from October 1994 until the beginning of fiscal year 2000.<sup>5</sup> Although RLIMS is an analogue to the manual receiving logs, it does not track information such as the analysts who check samples out and back in from the sample custodian. That information is still manually maintained in a log by the custodian, and it is reviewed when data set packages that are logged in the RLIMS data base are reviewed for involvement by the suspect analysts.

These two "receiving log" data bases help EPA to locate the underlying CRL laboratory data set packages that contain analytical records for a particular environmental sampling project at a site.<sup>6</sup> The files can then be reviewed to identify analysts who worked with or analyzed samples in the sample project batch. The data base information also is useful in searching other data bases created to help identify where the suspect analysts did sample preparation work or analyzed samples from these sample batches.

The electronic data bases which summarize the receiving logs and the analogous data base derived from RLIMS have been reviewed in order to identify any samples relating to the NL Industries/Taracorp Site that have been received by CRL for analysis by either CRL or ESAT

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<sup>5</sup>Both EPA analysts were removed from the laboratory on about October 13, 1998. One of the EPA analysts resigned at the beginning of January 1999 without returning to the lab. The other EPA analyst returned to the lab sometime in early 1999, but worked on a limited number of projects (not related to the NL Industries/ Taracorp Site) before being placed on leave at the end of May 1999. The second EPA analyst's employment with the Agency subsequently ended, and this analyst did not return to work in the laboratory. Also, the CRL stopped accepting samples for analyses on about June 10, 1999 pending the completion of a lab audit and necessary corrective actions. The CRL did not resume receiving samples for analyses again until March 2000.

The ESAT Contractor continued to receive and analyze samples at the CRL until after September 1, 1999, and a stop work order was issued to the contractor on September 3, 1999. Subsequently, the stop work order was lifted for some work assignments, including data validation work and non-organic analyses although it has remained in effect for analyses of pesticides/PCBs, semi-volatile organic compounds (acid base neutrals) and volatile organic compounds other than to complete the work in progress when the stop work order was issued. One of the suspect ESAT analysts ended employment with the contractor on November 12, 1999, and the other suspect ESAT analyst resigned effective April 18, 2000. EPA has obtained data bases that provide information concerning time charges by the two ESAT contractor analysts since September 1999. That data base has been reviewed and no time has been found charged to this site by either suspect ESAT analyst.

<sup>6</sup>The log books track samples analyzed by both CRL and ESAT analysts. The ESAT also recorded information in the same instrument logs used by EPA CRL employees until fiscal year 2000.

analysts. Samples associated with data set package numbers 910000771 (a sample receipt date of September 6, 1991 is recorded), 920000819 (a receipt date of November 20, 1991), and 920000917 (a receipt date of April 23, 1992) have been identified in those data bases as received at CRL for analyses. It is noted that data set packages 920000819 and 920000917 were previously identified in the review of the FRC data base (the numbers were truncated).

These data set packages have been retrieved and reviewed. Based on that review, the following conclusions are drawn. CRL/ESAT personnel involved in the analysis of data set 920000917 were D. M. May, J. Thakker, and P. Churilla, C. T. Elly, J. Morris, David Payne, D. Miller and J. Ganz. CRL's personnel involved in analysis of CRL Data Set 920000819 were D. Payne, C. T. Elly, B. A. Iven, R. Dilig, J. Ganz, J. Rodlin, D. Kruze, C. Seblanskey, JHA Jr., J. Morris, and F. Awoger [I'm not positive about correct spelling of these names]. The records show that the ESAT analyst involved in the analyses of data set 910000771 was Bai Yuen whose work was reviewed by CRL's John Morris and David Payne. None of the 4 suspect analysts were identified in the review of any of these three data set packages.

A review of Superfund files in the Federal Records Center indicates that the CRL performed these analysis for the NL Site as a result of a 1991 request from ATSDR. ATSDR, in conjunction with the State of Illinois, was undertaking a blood study of local residents to determine whether elevated levels of lead were present. Region 5 was asked and agreed to conduct a simultaneous environmental study for elevated levels of lead and cadmium in soils, drinking water, and indoor "dust."

### **INSTRUMENT LOGS**

The suspect analysts worked primarily in the CRL organic chemistry Gas Chromatography (GC) or Gas Chromatography/Mass Spectrometry (GC/MS) laboratories. Therefore, EPA has reviewed information from available instrument logs (sometimes referred to as bench logs) in these laboratories and created electronic data base(s) summarizing information from these instrument logs.

The instrument logs from the Gas Chromatography laboratory date back to 1988. These logs contain information that can identify analysts involved in analytical work for sample projects, by means of entries indicating data set numbers, site names, dates, and identification of the analysts. The electronic data base summarizes information from these logs, including names or initials of analysts and data set numbers noted in the logs, and sites associated with the entries. The lists provide a further source of information to identify involvement of suspect analysts in data analysis at various facilities.

The GC/MS laboratory's relevant instrument logs also have been reviewed for involvement of the suspect analysts. An electronic data base has been created summarizing information from these instrument logs as to data sets and sites which indicate that the suspect analysts performed

work in that laboratory. The data base has log entries which go back to the late 1970's.

The instrument log data bases for both the GC and GC/MS laboratories have been reviewed, and I have found no evidence of the suspect EPA or ESAT analysts' involvement with the NL site.

#### **EMPLOYEE TIME CHARGES BILLED TO SITE**

EPA has generated a report from the Agency's Management and Accounting Reporting System (MARS) which includes information as to the time billed to Superfund sites by the two suspect EPA analysts. The site charges are based on Superfund time sheets which employees who work on Superfund matters are required to complete. The information from the MARS report is derived from the Agency's Integrated Financial Management System. The MARS report includes the employee's last name, a site ID number, fiscal year, pay period and hours billed to the site. That information from the MARS report was placed into a spreadsheet along with the site names corresponding to the site ID number. I have reviewed the spreadsheet with the two suspect EPA analysts' Superfund time charges and have found no Superfund time charges to the NL site.

Data bases also have been created that contain information regarding time charged to particular sites by the two suspect ESAT analysts. The Region 5 ESAT has operated under three consecutive contracts. The first contract covered the period from October 1987 through October 1991. Monthly financial reports submitted to the Agency pursuant to the first ESAT contract provide information regarding time charged by ESAT employees to particular sites. One of the two suspect ESAT analysts began working for the ESAT contractor at CRL on October 17, 1990 and performed services under the first ESAT contract. The time charges for this ESAT employee during the first ESAT contract have been summarized in a data base. I have reviewed those charges and did not find any charges made by that employee to the NL Industries/Taracorp site.

The second ESAT contract covered the period from the end of October 1991 through January 30, 1996. The ESAT contractor also submitted monthly financial reports to EPA under this ESAT contract; however, these reports did not begin to include individual time charges until the report for the time period of May 4-31, 1992. Both of the suspect ESAT analysts performed services under the second ESAT contract. One of the ESAT suspect analysts worked for the ESAT contractor during the entire contract period; the other suspect ESAT analyst began work at CRL for the ESAT contractor on March 6, 1995. Time charges reported under this contract for the two suspect ESAT analysts have been summarized in a data base. I have reviewed those time charges and did not find any charges made by either of them to the NL Industries/Taracorp site.

The third ESAT contract commenced on January 31, 1996. The contractor provided EPA with a data base of Region 5 ESAT employee time charges under this contract with entries as late as September 1999. This has subsequently been updated with an additional data base of time charges since that time until May 2000. The time charge records for the two suspect ESAT analysts have been extracted from these data bases and copied into their own data bases. I have

reviewed the time charges in both of those data bases and found no time charged to the NL site by either of the suspect ESAT analysts.<sup>7</sup>

### **DATA VALIDATION**

In addition to preparing and analyzing samples, EPA CRL employees and ESAT employees also have provided non-analytical services, including what is known as "data validation." Data validation involves a review of laboratory data packages and documentation generated during the analyses of samples by outside laboratories, rather than performance of analytical work at the CRL itself. Data validation is the process of reviewing analytical data to assess data quality and completeness for purposes of usability.

The 1977-1994 sample receiving logs include records with receipt dates as late as December 1990 that indicate the receipt of data packages at CRL from laboratories that are part of the Superfund Program's Contract Laboratory Program, as well as from laboratories retained by Potentially Responsible Parties. These records are identifiable by the presence of a CLP "Case" or "SAS" number in the comment field or the prefix "PRP" before a data set number. The practice of tracking these documents in the logs appears to have ended after 1990.

The sample receiving log summary contains three records, "PRP 4276" "PRP 3777" and "PRP 5406" that are attributed to the NL Industries/Taracorp Site. It is not surprising that these "PRP" files were found, as NL Industries conducted the Remedial Investigation during this time. No records appear for the NL Industries/Taracorp Site which have "Case" or "SAS" numbers in the comment field.

The CRL maintained a Superfund Sample Tracking System from late 1984 to 1993. The initials of CRL-EPA employees who did data validation work for a data set package are in this system along with the Case or SAS numbers associated with a data set package, the site ID number, the date the package was received at CRL, date reviewed, and the hours spent. Records indicating data validation work by the two EPA suspect analysts were extracted and placed in a Lotus spreadsheet. The site name is in the spreadsheet based on the listed site ID code. The data set numbers were entered on the spreadsheet by matching the Case or SAS numbers with the CRL receiving log records for the data set. Also, the date and time of receipt for the traffic control and chain of custody documents for these CLP samples are entered from those log records. No records in this data base indicate data validation work for NL samples by either of the suspect EPA employees. Furthermore, neither of the suspect EPA analysts charged time to the NL site. The absence of charges in the MARS report and the Superfund Management Tracking System

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<sup>7</sup> Itemized summaries of costs incurred by the United States at a site are another source of information regarding whether the CRL employees or the EPA contractor billed time to a site. An itemized cost summary for the NL site, dated July 1, 1998, does not reveal time billed by the suspect EPA analysts or either ESAT contractor.

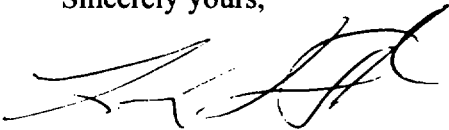
for work by the suspect EPA analysts at the NL site supports the conclusion that they would not have been involved in data validation work on NL site data.

With respect to the suspect ESAT analysts, I have reviewed the data bases of time charges by these analysts under each of the three ESAT contracts, including an updated data base of time charges through April 2000. This review has verified that neither of them billed time to the NL Industries/Taracorp Site, whether for analytical work, data validation work, or otherwise. Therefore, we have no reason to believe that they did validation work for samples at this site.

Brad Bradley has been the Remedial Project Manager at this Site for fourteen years, and he assures me that the CRL involvement noted above was the only involvement by CRL at this Site. It should also be noted that CRL's involvement in this case was in relation solely to the ASTDR study, not remedy selection. Finally, I have reviewed all known relevant site documents and am unaware of any other documents that would suggest any additional participation by any of the suspect analysts in this case.

For all of the reasons discussed above, Region 5 believes that the results of this CRL review should have no impact on your settlement of the claims in this case. If you have any questions regarding this letter, please call me.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Larry L. Johnson', with a stylized flourish at the end.

Larry L. Johnson  
Associate Regional Counsel